

FISCAL NOTE

Bill #: SB0366 **Title:** Gross receipts tax for certain corporations
Primary Sponsor: Toole, K **Status:** As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$17,712,000	\$44,280,000
Net Impact on General Fund Balance:	\$17,712,000	\$44,280,000

- | | |
|---|---|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. SB 366 establishes a tax of 1% on Montana corporate gross receipts in excess of \$40 million on gross receipts received after December 31, 2005.
2. Figures on gross corporate sales are available only for multi-state corporations that must apportion sales for tax purposes. Gross sales figures for corporations operating entirely within the state are not available. Most companies operating in the state and who would be subject to the proposed tax are multi-state, so financial data for these corporations is used for estimating this fiscal note.
3. Using annual data from tax year 1997 through tax year 2002, the average number of companies with Montana-source sales in excess of \$40 million is 90, with average sales that would be subject to the 1% gross receipts tax (sales above \$40 million) of \$94.4 million.
4. Applying the proposed 1% tax to total sales above \$40 million (\$94.4 million X 90 companies X 1%) would result an estimated \$84.96 million in gross receipts tax revenues
5. Under this bill, corporations would be able to credit gross receipt tax payments against corporate license and income taxes. The average corporate license tax liability of the companies that would be subject to the gross receipts tax is \$452,000. Since the amount of the proposed gross receipts tax per company exceeds the average corporate license tax liability, the average amount of the credit under the proposal would be \$452,000 for a combined credit amount of \$40.68 million (\$452,000 X 90 companies).

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6. The net change in taxes paid (new gross receipt tax revenue less the reduction in corporate license tax revenue due to the credit) results in an additional \$44.28 million in general fund revenue (\$84.96 million gross receipts tax revenue less \$40.68 million corporate license tax credit). This amount is assumed to be the amount of gross receipts tax associated with a given calendar year period.
7. The bill is effective starting tax year 2006 and applies to gross receipts received after December 31, 2005. Under Section 5 of this bill, corporations subject to the tax are required to make estimated payments quarterly if the annual taxes are expected to exceed \$10,000. All companies subject to this tax are anticipated to have a tax liability in excess of \$10,000.
8. It is assumed 80% of corporations report on a calendar year basis, and 20% on a fiscal year basis. Section 5(2)(b)(i) requires that corporations pay 80% of the tax shown on the return for the tax year in quarterly estimated tax payments. The estimated impact to the general fund is \$17.712 million in FY 2006 (\$44.28 million annual revenues X .5 year X 80% of the amount due) and \$44.28 million in FY 2007.
9. The Department of Revenue estimates an additional .13 FTE would be needed in FY 2006 and .25 in FY 2007 to process payments and returns for the tax imposed in this bill. Additional administrative expenditures are estimated to be \$5,765 in FY 2006 and \$5,307 in FY 2007. This costs would be absorbed by the Department.
10. Assuming funding for the full maintenance and support costs for the GenTax system, no further information technology costs are required by the Department.

FISCAL IMPACT:

	FY 2006 <u>Difference</u>	FY 2007 <u>Difference</u>
<u>Revenues:</u>		
General Fund (01)	\$17,712,000	\$44,280,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$17,712,000	\$44,280,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

LONG-RANGE IMPACTS:

This proposal would generate additional general fund revenues of approximately \$44 million annually.

TECHNICAL NOTES:

1. Section 3 of the bill states that a gross receipts tax payment may be credited against taxes imposed under 15-31-122, MCA, among other statutes. However, Section 15-31-122, MCA, provides for an alternative gross sales tax to corporations with annual gross Montana sales not in excess of \$100,000. To the extent that the tax in this bill applies to corporations with Montana sales of over \$40 million, the reference to 15-31-122, MCA is unnecessary.
2. Section 4(3)(a) provides for an automatic extension for filing a return under this bill but does not describe the process by which a taxpayer requests an extension.

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3. Section 4 (4) provides instructions to a receiver, trustee or assignee for payout. The requirement to pay the tax before any claims of creditors or stockholders may conflict with priorities established in the Bankruptcy Code.
4. Section 5 refers to the schedule for remitting taxes during a tax year. Since corporations have flexibility in defining a tax year, adding language that clarifies that corporations must report on or before the 15th day of the 5th month following the close of the tax year for which the corporation reports will enhance compliance.